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II

106TH CONGRESS  
1ST SESSION

# S. 1480

To amend title XVIII of the Social Security Act to assure access of medicare beneficiaries to prescription drug coverage through the SPICE drug benefit program.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 4, 1999

Ms. SNOWE (for herself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to assure access of medicare beneficiaries to prescription drug coverage through the SPICE drug benefit program.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Seniors Prescription Insurance Coverage Equity  
6 (SPICE) Act of 1999”.

7 (b) TABLE OF CONTENTS.—The table of contents of  
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. SPICE drug benefit program.

“PART D—SPICE DRUG BENEFIT PROGRAM

“Sec. 1860A. Establishment of SPICE drug benefit program.

“Sec. 1860B. Requirements for offering SPICE drug benefit coverage.

“Sec. 1860C. Enrollment process for SPICE drug benefit coverage.

“Sec. 1860D. Financial assistance to obtain SPICE prescription drug coverage

“Sec. 1860E. SPICE Board.

“Sec. 1860F. SPICE Trust Fund.

Sec. 3. Conforming changes to medigap.

Sec. 4. Provision of information on SPICE drug benefit program under health insurance information, counseling, and assistance grants.

Sec. 5. Funding through taxes on tobacco products.

**1 SEC. 2. SPICE DRUG BENEFIT PROGRAM.**

2 Title XVIII of the Social Security Act (42 U.S.C.  
3 1395 et seq.) is amended by redesignating part D as part  
4 E and by inserting after part C the following new part:

5 “PART D—SPICE DRUG BENEFIT PROGRAM

6 “ESTABLISHMENT OF SPICE DRUG BENEFIT PROGRAM

7 “SEC. 1860A. (a) IN GENERAL.—Under this part,  
8 the SPICE Board (established under section 1860E) shall  
9 provide for a SPICE drug benefit program under which—

10 “(1) all eligible medicare beneficiaries shall be  
11 provided access to SPICE prescription drug cov-  
12 erage (meeting the conditions of section 1860B)  
13 through either enrollment in a Medicare+Choice  
14 plan, enrollment in a SPICE medicare supplemental  
15 policy, or coverage under a group health plan; and

16 “(2) there is financial assistance provided under  
17 section 1860D for beneficiaries who voluntarily ob-  
18 tain such coverage, with such assistance varying de-  
19 pending upon the income of such beneficiaries.

1       “(b) VOLUNTARY NATURE OF PROGRAM FOR ENTI-  
 2 TIES AND BENEFICIARIES.—Nothing in this part shall be  
 3 construed as requiring—

4           “(1) an eligible medicare beneficiary to obtain  
 5 coverage under a plan or policy that provides SPICE  
 6 prescription drug coverage;

7           “(2) a Medicare+Choice organization to offer a  
 8 Medicare+Choice plan that provides SPICE pre-  
 9 scription drug coverage; or

10          “(3) an issuer of a medicare supplemental pol-  
 11 icy to issue a SPICE medicare supplemental policy.

12       “(c) PROVIDING INFORMATION TO BENE-  
 13 FICIARIES.—

14          “(1) IN GENERAL.—The SPICE Board shall  
 15 broadly disseminate information to eligible medicare  
 16 beneficiaries on the SPICE drug benefit program  
 17 under this part, including information on the sanc-  
 18 tions for delayed enrollment under section 1860D(e).

19          “(2) SIMILAR TO MEDICARE+CHOICE ACTIVI-  
 20 TIES.—Such activities shall be similar to the activi-  
 21 ties performed under section 1851(d) (including the  
 22 approval of policy marketing materials).

23          “(3) ARRANGEMENTS.—The SPICE Board  
 24 shall, in cooperation with the Secretary, enter into  
 25 such arrangements as may be appropriate to dis-

1 seminate widely to eligible medicare beneficiaries in-  
 2 formation about the SPICE drug benefit program in  
 3 connection with materials distributed by the Sec-  
 4 retary to medicare beneficiaries, including in the  
 5 medicare handbook under section 1804 and in mate-  
 6 rials distributed under section 1851(d).

7 “(d) ELIGIBLE MEDICARE BENEFICIARY DE-  
 8 FINED.—For purposes of this part, the term ‘eligible  
 9 medicare beneficiary’ means an individual who is entitled  
 10 to benefits under part A and enrolled under part B.

11 “REQUIREMENTS FOR OFFERING SPICE DRUG BENEFIT  
 12 COVERAGE

13 “SEC. 1860B. (a) REQUIREMENT FOR APPROVAL OF  
 14 NAIC MODEL REVISIONS.—

15 “(1) IN GENERAL.—

16 “(A) CONDITION FOR OFFERING SPICE  
 17 MEDICARE SUPPLEMENTAL POLICY.—On or  
 18 after the effective date of this provision, it is  
 19 unlawful to issue or sell a medicare supple-  
 20 mental policy (as defined in section 1882(g))  
 21 that provides coverage of outpatient prescrip-  
 22 tion drugs in a State unless—

23 “(i) the State has adopted the Na-  
 24 tional Association of Insurance Commis-  
 25 sioners revisions under section

1 1882(v)(1)(A) that have been approved by  
2 the SPICE Board under this section; and

3 “(ii) the coverage is offered consistent  
4 with section 1860C.

5 The penalties described in clause (ii) of section  
6 1882(d)(3)(A) shall apply to whoever violates  
7 this subparagraph in the same manner as they  
8 apply to whoever violates such section.

9 “(B) CONDITION FOR RECEIPT OF SPICE  
10 FINANCIAL ASSISTANCE.—No payment of finan-  
11 cial assistance with respect to coverage of an el-  
12 igible medicare beneficiary under SPICE pre-  
13 scription drug coverage which is offered either  
14 as a SPICE medicare supplemental policy, as  
15 part of the benefits under a Medicare+Choice  
16 plan, or as part of the benefits under a group  
17 health plan, shall be made unless—

18 “(i) an application with respect to  
19 such coverage has been approved by the  
20 SPICE Board under this section; and

21 “(ii) in the case of a SPICE medicare  
22 supplemental policy or a Medicare+Choice  
23 plan, the coverage is offered consistent  
24 with section 1860C.

1           “(2) ESTABLISHMENT OF APPLICATION PROC-  
2       ESS.—

3           “(A) IN GENERAL.—The SPICE Board  
4       shall establish—

5                   “(i) procedures regarding the informa-  
6                   tion to be included in applications under  
7                   this section and for the time and manner  
8                   in which such applications should be sub-  
9                   mitted;

10                   “(ii) conditions (consistent with this  
11                   part) for the approval of such applications;  
12                   and

13                   “(iii) the period (in no case less than  
14                   1 year) for which approval of such an ap-  
15                   plication is valid.

16           “(B) DISAPPROVAL.—The SPICE Board  
17       may disapprove (or revoke the approval) of such  
18       an application if the Board finds that, in the  
19       case of a SPICE medicare supplemental policy  
20       or Medicare+Choice plan, that the entity offer-  
21       ing the SPICE prescription drug coverage is  
22       purposefully engaged in activities intended to  
23       result in favorable selection of those eligible  
24       medicare beneficiaries obtaining coverage  
25       through the policy or plan.



1       “(b) SPICE PRESCRIPTION DRUG COVERAGE DE-  
2 FINED.—For purposes of this title, the term ‘SPICE pre-  
3 scription drug coverage’ means coverage of outpatient pre-  
4 scription drugs that the SPICE Board determines meets  
5 the following requirements:

6           “(1) BENEFIT LEVEL.—The benefits  
7 provided—

8               “(A) are limited to outpatient prescription  
9 drugs;

10              “(B) include at least the threshold benefits  
11 specified under subsection (c); and

12              “(C) do not include benefits for prescrip-  
13 tion drugs for which benefits are otherwise  
14 available (directly or when furnished as part of,  
15 or as an incident to, another item or service)  
16 under part A or B.

17           “(2) ACCESSIBILITY.—The benefits are acces-  
18 sible and convenient to all eligible medicare bene-  
19 ficiaries who have such coverage and provide for ac-  
20 cess on a timely basis to new outpatient prescription  
21 drugs and they become available.

22           “(3) NO PRE-EXISTING CONDITION EXCLU-  
23 SIONS.—There are no pre-existing condition exclu-  
24 sions or similar exclusions applied with respect to  
25 the coverage.

1           “(4) LIMITS ON FORMULARIES.—If the cov-  
 2           erage uses a formulary, the formulary meets the re-  
 3           quirements of subsection (d).

4           “(c) THRESHOLD BENEFIT LEVEL.—

5           “(1) IN GENERAL.—The SPICE Board shall re-  
 6           quest the National Association of Insurance Com-  
 7           missioners to revise the model standards for medi-  
 8           care supplemental policies pursuant to section  
 9           1882(v) for the purpose of—

10           “(A) defining the term ‘outpatient pre-  
 11           scription drugs’; and

12           “(B) specifying a threshold level of benefits  
 13           for SPICE prescription drug coverage.

14           “(2) CONSIDERATIONS.—

15           “(A) DEFINITION.—In establishing a defi-  
 16           nition under paragraph (1)(A), the Board shall  
 17           request that the National Association of Insur-  
 18           ance Commissioners take into account the defi-  
 19           nition of covered outpatient drugs under section  
 20           1927(k)(2) (which includes biological products  
 21           and insulin).

22           “(B) THRESHOLD.—In specifying the  
 23           threshold level under paragraph (1)(B), the  
 24           Board shall request that the National Associa-  
 25           tion of Insurance Commissioners—



1           “(i) take into account the level of such  
2           coverage (including deductibles and other  
3           cost-sharing) applied under health plans  
4           offered under the Federal Employees  
5           Health Benefits Program (under chapter  
6           89 of title 5, United States Code) and  
7           under other large group health plans; and

8           “(ii) permit (if determined appro-  
9           priate) optional coverage of drugs (except  
10          for agents used to promote smoking ces-  
11          sation) for which coverage may be excluded  
12          or restricted under section 1927(d)(2).

13          “(3) CONSTRUCTION.—Nothing in this part  
14          shall be construed as preventing SPICE prescription  
15          drug coverage from providing benefits for outpatient  
16          prescription drugs in excess of the threshold speci-  
17          fied under this subsection.

18          “(d) FORMULARY REQUIREMENTS.—

19          “(1) IN GENERAL.—A formulary meets the re-  
20          quirements of this subsection only if—

21               “(A) such formulary is based on the med-  
22               ical needs of eligible medicare beneficiaries;

23               “(B) the entity offering the coverage has  
24               in place an appeals process for any eligible  
25               medicare beneficiary to receive any medically

1           necessary outpatient prescription drug that is  
2           not on the formulary;

3           “(C) such procedures do not impose a sig-  
4           nificant financial burden on an eligible medicare  
5           beneficiary or delay the provision of medically  
6           necessary outpatient prescription drugs to such  
7           a beneficiary; and

8           “(D) the entity offering the coverage pro-  
9           vides notification to enrollees of any change in  
10          the formulary and such notification is provided  
11          at least 60 days prior to such change.

12          “(2) APPEAL PROCESS.—The appeals process  
13          established under paragraph (1)(B) shall provide for  
14          at least a level of protection that is similar to or bet-  
15          ter than the level of protection provided with respect  
16          to benefits under Medicare+Choice plans under part  
17          C.

18          “(e) USE OF COST CONTAINMENT MECHANISMS.—  
19          Nothing in this part shall be construed as preventing an  
20          entity offering SPICE prescription drug coverage from  
21          using reasonable cost containment methods, such as  
22          formularies, mail order services, and generic drug substi-  
23          tution, consistent with the specific requirements of this  
24          part and applicable law.

1 “ENROLLMENT PROCESS FOR SPICE DRUG BENEFIT

2 COVERAGE

3       “SEC. 1860C. (a) ENROLLMENT PROCESS.—The  
4       SPICE Board shall establish procedures, consistent with  
5       this section, through which an eligible medicare bene-  
6       ficiary may voluntarily elect whether or not to enroll,  
7       disenroll, and change enrollment in a SPICE medicare  
8       supplemental policy or in a Medicare+Choice plan that  
9       includes SPICE prescription drug coverage.

10       “(b) CONSIDERATIONS.—In establishing such proce-  
11   dures, the SPICE Board shall—

“(1) use rules similar to the rules for enrollment, disenrollment, and changes in enrollment in a Medicare+Choice plan under section 1851 (including annual open enrollment periods and guaranteed issue during any enrollment period);

“(2) permit special enrollment periods in cases in which an eligible medicare beneficiary, who is enrolled under a Medicare+Choice plan or group health plan that provides SPICE prescription drug coverage—

22                   “(A) loses such coverage under such a  
23                   plan; or

24 “(B) experiences a significant adverse in-  
25 come level change (as defined by the SPICE

1 Board) which changes the level of financial as-  
 2 sistance available under section 1860D; and

3 “(3) provide for coordination with the Secretary  
 4 with respect to such enrollment, disenrollment, and  
 5 changes in enrollment under par C.

6 “FINANCIAL ASSISTANCE TO OBTAIN SPICE

7 PRESCRIPTION DRUG COVERAGE

8 “SEC. 1860D. (a) IN GENERAL.—The SPICE Board  
 9 shall provide financial assistance, in accordance with this  
 10 section, with respect to eligible medicare beneficiaries who  
 11 have SPICE prescription drug coverage through enroll-  
 12 ment in a SPICE medicare supplemental policy, in a  
 13 Medicare+Choice plan that includes such coverage, or in  
 14 a group health plan that includes such coverage.

15 “(b) AMOUNT OF ASSISTANCE.—

16 “(1) IN GENERAL.—Subject to subsections (e)  
 17 and (f) and paragraph (2), the amount of financial  
 18 assistance with respect to an eligible medicare bene-  
 19 ficiary is equal to the following percentage of the ap-  
 20 plicable cost (as defined in subsection (g)(1)) of the  
 21 SPICE prescription drug coverage:

22 “(A) 100 PERCENT IF INCOME BELOW 150  
 23 PERCENT OF POVERTY.—In the case of an eligi-  
 24 ble medicare beneficiary who applies for en-  
 25 hanced financial assistance under subsection (c)  
 26 and whose income (as verified under such sub-

1 section) does not exceed 150 percent of the pov-  
2 erty line, the percentage is 100 percent.

3 “(B) OTHER PERCENT IF INCOME BE-  
4 TWEEN 150 AND 175 PERCENT OF POVERTY.—

5 In the case of an eligible medicare beneficiary  
6 who applies for enhanced financial assistance  
7 under subsection (c) and whose income (as  
8 verified under such subsection) is greater than  
9 150 percent, but does not exceed 175 percent,  
10 of the poverty line, the SPICE Board shall  
11 specify the percentage consistent with the fol-  
12 lowing rules:

13 “(i) RANGE.—The percentage may  
14 not exceed 100 percent nor be less than  
15 the percentage specified under subpara-  
16 graph (C).

17 “(ii) SLIDING SCALE.—The percent-  
18 age may not be higher for eligible medicare  
19 beneficiaries whose income is higher.

20 “(iii) WITHIN AVAILABLE FUNDS.—  
21 The percentage is established in a manner  
22 that is consistent with the amount of funds  
23 available for financial assistance under this  
24 section.

1                   “(C) 25 PERCENT FOR OTHER BENE-  
2                   FICIARIES.—In the case of any other eligible  
3                   medicare beneficiary, the percentage is 25 per-  
4                   cent.

5                   “(2) LIMITATION IN CASE OF COVERAGE PRO-  
6                   VIDED THROUGH A MEDICARE+CHOICE PLAN.—In  
7                   the case of financial assistance provided under this  
8                   section with respect to SPICE prescription drug cov-  
9                   erage provided through a Medicare+Choice plan, the  
10                  amount of the financial assistance may not exceed  
11                  the amount of the portion of the premium charged  
12                  for enrollment in the plan that is related to out-  
13                  patient prescription drugs.

14                  “(c) APPLICATION FOR ENHANCED FINANCIAL AS-  
15                  SISTANCE.—

16                  “(1) IN GENERAL.—The SPICE Board shall es-  
17                  tablish procedures under which an individual who  
18                  desires enhanced financial assistance under this sec-  
19                  tion may voluntarily apply for an income determina-  
20                  tion.

21                  “(2) INCOME VERIFICATION.—

22                  “(A) IN GENERAL.—Under the procedures  
23                  established under paragraph (1), if an indi-  
24                  vidual voluntarily applies for an income deter-  
25                  mination under this subsection, the individual is



1           deemed to have consented to the SPICE Board  
2           seeking and using income-related information  
3           from other Government agencies in order to  
4           verify the individual's income.

5           “(B) RESTRICTION ON USE OF INFORMA-  
6           TION.—Information obtained under subpara-  
7           graph (A) may be used by officers and employ-  
8           ees of the SPICE Board only for the purposes  
9           of, and to the extent necessary in, carrying out  
10          their responsibilities under this part.

11          “(3) PERIODIC REDETERMINATIONS.—Such in-  
12          come determinations shall be valid for a period (of  
13          not less than 1 year) specified by the SPICE Board.

14          “(d) FORM OF ASSISTANCE.—

15          “(1) IN GENERAL.—Financial assistance under  
16          this section shall be provided in the form of a pay-  
17          ment to the issuer of the SPICE medicare supple-  
18          mental policy involved, the Medicare+Choice organi-  
19          zation offering the Medicare+Choice plan involved,  
20          or the sponsor of the group health plan involved, of  
21          the amount of the subsidy. Such payment shall be  
22          in a manner and time provided for by the SPICE  
23          Board.

24          “(2) ADDITIONAL REQUIREMENT.—No financial  
25          assistance shall be made available with respect to

1 SPICE prescription drug coverage provided by an  
2 entity to an eligible medicare beneficiary unless the  
3 entity provides assurances satisfactory to the SPICE  
4 Board that the entity shall reduce the amount other-  
5 wise charged the beneficiary for such coverage by an  
6 amount equal to the amount of such assistance.

7 “(3) SPECIAL RULE WHERE NO OR LOW PRE-  
8 MIUM CHARGED.—The SPICE Board shall establish  
9 appropriate procedures to assure that eligible medi-  
10 care beneficiaries who obtain SPICE prescription  
11 drug coverage through enrollment in a group health  
12 plan which does not impose a premium or imposes  
13 a premium that is less than the amount of the finan-  
14 cial assistance otherwise provided, are provided the  
15 benefit of some of such financial assistance.

16 “(e) LATE ENROLLMENT PENALTY.—

17 “(1) IN GENERAL.—Subject to paragraph (2),  
18 the SPICE Board shall establish procedures for re-  
19 ducing the amount of financial assistance provided  
20 under this section on behalf of an eligible medicare  
21 beneficiary if the beneficiary fails to obtain and  
22 maintain SPICE prescription drug coverage during  
23 periods in which the beneficiary is eligible to obtain  
24 such coverage. Such procedures may be similar to  
25 the part B late enrollment penalty provisions under

1 section 1839(b) and shall not take into account peri-  
2 ods before the first period in which financial assist-  
3 ance is made available under this section.

4 “(2) EXCEPTION.—The late enrollment proce-  
5 dures established pursuant to paragraph (1) shall  
6 not apply to an eligible medicare beneficiary who is  
7 enrolled under Medicare+Choice plan or a group  
8 health plan that provides outpatient prescription  
9 drug coverage and the plan terminates or ceases to  
10 provide such coverage to the beneficiary, but only  
11 if—

12 “(A) the beneficiary seeks to enroll under  
13 a plan or policy that offers SPICE prescription  
14 drug coverage at the next opportunity that is  
15 available to the beneficiary after the effective  
16 date of the termination of such coverage; and

17 “(B) submits evidence of the effective date  
18 of the termination of such coverage.

19 “(f) ADJUSTMENT OF FINANCIAL ASSISTANCE IF IN-  
20 SUFFICIENT FUNDING.—

21 “(1) LIMITATION OF ASSISTANCE TO FUNDS  
22 AVAILABLE.—In no case shall the amount of finan-  
23 cial assistance provided under this section exceed the  
24 amount of funds available for such assistance under  
25 the SPICE Trust Fund.

1           “(2) REQUIRED ADJUSTMENT.—If the SPICE  
2     Board determines under section 1860E(b)(3)(C)  
3     that the amount in the SPICE Trust Fund in the  
4     next year will be insufficient to cover the costs of  
5     providing financial assistance under this section in  
6     such year—

7           “(A) the SPICE Board shall first reduce  
8     the percentage specified in subsection (b)(3) to  
9     such lower percentage (but not below 10 per-  
10    cent) as may be required, and to adjust the per-  
11    centage specified under subsection (b)(2) to re-  
12    flect such reduction;

13          “(B) if such percentage reductions are not  
14    sufficient to reduce the costs to comply with  
15    paragraph (1), the SPICE Board shall next re-  
16    duce the income thresholds (as a percentage of  
17    the poverty line) under subsection (b) as may  
18    be further required; and

19          “(C) if such previous reductions are still  
20    not sufficient to reduce the costs to comply with  
21    paragraph (1), the SPICE Board shall imme-  
22    diately report to Congress and suspend the pro-  
23    vision of financial assistance under this section  
24    during such year.

25          “(g) DEFINITIONS.—For purposes of this section:

1           “(1) APPLICABLE COST.—The term ‘applicable  
2           cost’ means, with respect to SPICE prescription  
3           drug coverage provided under—

4                   “(A) a SPICE medicare supplemental pol-  
5                   icy, is the premium charged for the policy;

6                   “(B) a Medicare+Choice plan, is the actu-  
7                   arial value of the portion of the adjusted com-  
8                   munity rate for the plan that is related to pro-  
9                   viding such coverage, as determined by the  
10                  SPICE Board in consultation with the Sec-  
11                  retary; or

12                  “(C) a group health plan, is the actuarial  
13                  value of the portion of the applicable premium  
14                  for the plan that is related to providing such  
15                  coverage, as determined by the SPICE Board  
16                  taking into account the applicable premium for  
17                  such plan (as defined in section 604(1) of the  
18                  Employee Retirement Income Security Act of  
19                  1974).

20           “(2) POVERTY LINE.—The term ‘poverty line’  
21           means the income official poverty line (as defined by  
22           the Office of Management and Budget, and revised  
23           annually in accordance with section 673(2) of the  
24           Omnibus Budget Reconciliation Act of 1981) appli-  
25           cable to a family of the size involved.

1 “SPICE BOARD

2 “SEC. 1860E. (a) ESTABLISHMENT.—There is estab-  
3 lished within the Department of Health and Human Serv-  
4 ices a Seniors Prescription Insurance Coverage Equity Of-  
5 fice, which shall be—

6 “(1) outside of the Health Care Financing Ad-  
7 ministration; and

8 “(2) run by a board to be known as the SPICE  
9 Board.

10 “(b) DUTIES.—

11 “(1) IN GENERAL.—The SPICE Board shall  
12 administer the SPICE drug benefit program under  
13 this part.

14 “(2) ONGOING STUDIES.—The SPICE Board  
15 shall conduct ongoing studies of the following issues:

16 “(A) The administration of this part.

17 “(B) The provision of information about  
18 the program under the health insurance infor-  
19 mation, counseling, and assistance grants under  
20 section 4360 of the Omnibus Budget Reconcili-  
21 ation Act of 1990.

22 “(C) Ways in which drug utilization can be  
23 used to provide better overall care for eligible  
24 medicare beneficiaries.



1           “(D) Savings and potential savings in Fed-  
2           eral health care programs which may occur, or  
3           can be attributed to, eligible medicare bene-  
4           ficiary access to, and utilization of, outpatient  
5           prescription drugs.

6           “(E) Trends in premium increases and fac-  
7           tors that contribute to changes in premiums.

8           “(F) Integration of the SPICE drug ben-  
9           efit program into a reformed medicare program.

10          “(G) The ability of eligible medicare bene-  
11          ficiaries to afford SPICE prescription drug cov-  
12          erage.

13          “(H) The impact of the program on the  
14          prescription drug benefits offered under  
15          Medicare+Choice plans and group health plans.

16          “(I) The appropriateness of the levels of fi-  
17          nancial assistance provided in the case of eligi-  
18          ble medicare beneficiaries who obtain assistance  
19          through SPICE prescription drug coverage pro-  
20          vided under Medicare+Choice plans or group  
21          health plans.

22          “(3) ANNUAL REPORT.—

23          “(A) IN GENERAL.—Not later than June 1  
24          of each year (beginning with 2001), the SPICE

1 Board shall submit an annual report to Con-  
2 gress on the program under this part.

3 “(B) INFORMATION ON STUDIES.—Such  
4 report shall include a detailed statement on the  
5 issues studied under paragraph (2).

6 “(C) DETAILED FINANCIAL PROJECTIONS  
7 AND REQUIRED ADJUSTMENTS IN FINANCIAL  
8 ASSISTANCE.—Such report shall include—

9 “(i) the report on the financial status  
10 of the SPICE Trust Fund under section  
11 1860F; and

12 “(ii) a statement if, based on such  
13 status, a reduction in financial assistance  
14 for the subsequent year is required under  
15 section 1860D(f) and, if so, the manner in  
16 which such reductions will be made.

17 Such report may include recommendations re-  
18 garding increases in financial assistance that  
19 should be made in a subsequent year, to the ex-  
20 tent they may be made consistent with section  
21 1860D(f)(1).

22 “(D) RECOMMENDATIONS.—Such report  
23 shall include such other recommendations for  
24 legislation and administrative actions as the  
25 SPICE Board considers appropriate.

1           “(4) STUDY AND REPORT REGARDING EXPAN-  
2       SION.—

3           “(A) STUDY.—The SPICE Board, in con-  
4       sultation with the National Association of In-  
5       surance Commissioners, shall conduct a study  
6       on—

7           “(i) permitting a benefit package  
8       under section 1882 of the Social Security  
9       Act (other than the outpatient prescription  
10      drug only package established under sub-  
11      section (v)(1)(A) of such section) to offer  
12      outpatient prescription drugs; and

13          “(ii) providing financial assistance  
14      under this part on behalf of eligible medi-  
15      care beneficiaries receiving coverage under  
16      such a benefit package.

17          “(B) REPORT.—Not later than 1 year  
18      after all of the members of the SPICE Board  
19      are appointed under subsection (c), the SPICE  
20      Board shall submit a detailed report to Con-  
21      gress on the study conducted pursuant to sub-  
22      paragraph (A), together with any recommenda-  
23      tions as determined appropriate by the SPICE  
24      Board.

1           “(5) RECOMMENDATIONS REGARDING GRANT  
2 PROGRAM.—The SPICE Board shall provide rec-  
3 ommendations and necessary information regarding  
4 the SPICE drug benefit program to the Secretary in  
5 order for the Secretary to provide health insurance  
6 information, counseling, and assistance grants under  
7 section 4360 of the Omnibus Budget Reconciliation  
8 Act of 1990.

9           “(c) MEMBERSHIP OF SPICE BOARD.—

10           “(1) NUMBER AND APPOINTMENT.—

11           “(A) IN GENERAL.—The SPICE Board  
12 shall be composed of 7 members appointed by  
13 the President, by and with the advice and con-  
14 sent of the Senate.

15           “(B) SPECIFIC REPRESENTATIVES.—In  
16 making appointments under subparagraph (A),  
17 the President shall ensure that the following  
18 groups are represented on the SPICE Board:

19           “(i) Consumers.

20           “(ii) Private health plan insurers (in-  
21 cluding insurers that offer fee-for-service  
22 and managed care plans) with expertise in  
23 the quality, scope, and marketing of health  
24 care services.

1                   “(iii) The Health Care Financing Ad-  
2                   ministration.

3                   “(iv) State insurance commissioners.

4                   “(C) SECRETARY OF HHS.—The Secretary  
5                   shall be a nonvoting, ex officio member of the  
6                   SPICE Board.

7                   “(2) DEADLINE FOR INITIAL APPOINTMENT.—  
8                   The initial members of the SPICE Board shall be  
9                   appointed by not later than 6 months after the date  
10                  of enactment of this section.

11                  “(3) TERMS.—

12                  “(A) IN GENERAL.—The terms of the  
13                  members of the SPICE Board shall be for 6  
14                  years, except that of the members first  
15                  appointed—

16                       “(i) three shall be appointed for terms  
17                       of 6 years;

18                       “(ii) two shall be appointed for terms  
19                       of 4 years; and

20                       “(iii) two shall be appointed for terms  
21                       of 2 years.

22                  “(B) VACANCIES.—Any member appointed  
23                  to fill a vacancy occurring before the expiration  
24                  of the term for which the member’s predecessor  
25                  was appointed shall be appointed only for the

1 remainder of that term. A member may serve  
2 after the expiration of that member's term until  
3 a successor has taken office.

4 “(4) CHAIRPERSON.—The President shall des-  
5 ignate the chairperson of the SPICE Board, except  
6 that the representative from the Health Care Fi-  
7 nancing Administration may not be designated as  
8 chairperson.

9 “(d) OPERATION OF THE BOARD.—

10 “(1) MEETINGS.—The SPICE Board shall meet  
11 at the call of the chairperson or upon written re-  
12 quest of a majority of its members.

13 “(2) QUORUM.—A majority of the members of  
14 the SPICE Board shall constitute a quorum, but a  
15 lesser number of members may hold hearings.

16 “(e) POWERS OF THE SPICE BOARD.—

17 “(1) HEARINGS.—The SPICE Board may hold  
18 such hearings, sit and act at such times and places,  
19 take such testimony, and receive such evidence as  
20 the SPICE Board considers advisable to carry out  
21 the purposes of this part.

22 “(2) INFORMATION FROM FEDERAL AGEN-  
23 CIES.—Upon request of the chairperson of the  
24 SPICE Board, the head of any Federal department  
25 or agency shall furnish such information to the



1 SPICE Board as is necessary to carry out the func-  
2 tions of the SPICE Board under this part.

3 “(3) POSTAL SERVICES.—The SPICE Board  
4 may use the United States mails in the same man-  
5 ner and under the same conditions as other depart-  
6 ments and agencies of the Federal Government.

7 “(4) GIFTS.—The SPICE Board may accept,  
8 use, and dispose of gifts or donations of services or  
9 property.

10 “(f) BOARD PERSONNEL MATTERS.—

11 “(1) MEMBERS.—

12 “(A) COMPENSATION.—Each member of  
13 the SPICE Board who is not an officer or em-  
14 ployee of the Federal Government shall be com-  
15 pensated at a rate equal to the daily equivalent  
16 of the annual rate of basic pay prescribed for  
17 level IV of the Executive Schedule under section  
18 5315 of title 5, United States Code, for each  
19 day (including travel time) during which such  
20 member is engaged in the performance of the  
21 duties of the SPICE Board. All members of the  
22 SPICE Board who are officers or employees of  
23 the United States shall serve without compensa-  
24 tion in addition to that received for their serv-

1           ices as officers or employees of the United  
2           States.

3           “(B) TRAVEL EXPENSES.—The members  
4           of the SPICE Board shall be allowed travel ex-  
5           penses, including per diem in lieu of subsist-  
6           ence, at rates authorized for employees of agen-  
7           cies under subchapter I of chapter 57 of title 5,  
8           United States Code, while away from their  
9           homes or regular places of business in the per-  
10          formance of services for the SPICE Board.

11          “(C) REMOVAL.—The President may re-  
12          move a member of the SPICE Board only for  
13          neglect of duty or malfeasance in office.

14          “(2) STAFF.—

15          “(A) IN GENERAL.—The chairperson of  
16          the SPICE Board may, without regard to the  
17          civil service laws and regulations, appoint and  
18          terminate an executive director and such other  
19          additional personnel as may be necessary to en-  
20          able the SPICE Board to perform its duties.  
21          The employment of an executive director shall  
22          be subject to confirmation by the SPICE  
23          Board.

24          “(B) COMPENSATION.—The chairperson of  
25          the SPICE Board may fix the compensation of

1 the executive director and other personnel with-  
2 out regard to the provisions of chapter 51 and  
3 subchapter III of chapter 53 of title 5, United  
4 States Code, relating to classification of posi-  
5 tions and General Schedule pay rates, except  
6 that the rate of pay for the executive director  
7 and other personnel may not exceed the rate  
8 payable for level V of the Executive Schedule  
9 under section 5316 of such title.

10 “(C) DETAIL OF GOVERNMENT EMPLOY-  
11 EES.—Any Federal Government employee may  
12 be detailed to the SPICE Board without further  
13 reimbursement, and such detail shall be without  
14 interruption or loss of civil service status or  
15 privilege.

16 “(D) PROCUREMENT OF TEMPORARY AND  
17 INTERMITTENT SERVICES.—The chairperson of  
18 the SPICE Board may procure temporary and  
19 intermittent services under section 3109(b) of  
20 title 5, United States Code, at rates for individ-  
21 uals which do not exceed the daily equivalent of  
22 the annual rate of basic pay prescribed for level  
23 V of the Executive Schedule under section 5316  
24 of such title.

1 "SPICE TRUST FUND

2 "SEC. 1860F. (a) CREATION OF TRUST FUND.—

3 There is established in the Treasury of the United States  
4 a trust fund to be known as the 'SPICE Trust Fund',  
5 consisting of such amounts as may be appropriated or  
6 credited to the SPICE Trust Fund as provided in this sec-  
7 tion.

8 "(b) AMOUNTS IN SPICE TRUST FUND.—

9 "(1) IN GENERAL.—The SPICE Trust Fund  
10 shall consist of the following amounts:

11 "(A) Amounts deposited in, or appro-  
12 priated to, the SPICE Trust Fund as provided  
13 in this section.

14 "(B) Any gifts and bequests made to such  
15 Trust Fund.

16 "(2) APPROPRIATION.—

17 "(A) AMOUNTS FROM TOBACCO TAX.—  
18 There are appropriated to the SPICE Trust  
19 Fund amounts equivalent to the net revenues  
20 received in the Treasury after December 31,  
21 1999, from the taxes imposed by section 5701  
22 of the Internal Revenue Code of 1986 to the ex-  
23 tent attributable to increases in the rates of tax  
24 imposed by such section over the rates which  
25 would have been imposed if the Seniors Pre-

1           scription Insurance Coverage Equity (SPICE)  
2           Act of 1999 had not been enacted.

3           “(B) OTHER AMOUNTS.—There are hereby  
4           authorized to be appropriated to the SPICE  
5           Trust Fund amounts from the on-budget sur-  
6           plus.

7           “(3) NET REVENUES.—For purposes of this  
8           subsection, the term ‘net revenues’ means the  
9           amount estimated by the Secretary of the Treasury  
10          based on the excess of—

11          “(A) the taxes received in the Treasury as  
12          described in paragraph (1), over

13          “(B) the sum of the decrease in the tax  
14          imposed by chapter 1 of the Internal Revenue  
15          Code of 1986 resulting from the imposition of  
16          the taxes described in paragraph (2) and the  
17          amount of refunds provided under subchapter A  
18          of chapter 52 of such Code to the extent such  
19          refunds are attributable to the revenues trans-  
20          ferred to such Trust Fund under this section.

21          “(4) TRANSFER.—The amounts appropriated  
22          pursuant to paragraph (2) shall be transferred by  
23          the Secretary of the Treasury from time to time  
24          from the general fund in the Treasury to the SPICE  
25          Trust Fund. The amount to be transferred under

1       this paragraph shall be determined on the basis of  
2       estimates by the Secretary of the Treasury of the  
3       taxes, described in such paragraph, paid to or depos-  
4       ited into the Treasury. The Secretary of the Treas-  
5       ury shall make adjustments in amounts subsequently  
6       transferred to the extent that prior estimates were  
7       in excess of, or were less than, such taxes.

8       “(c) EXPENDITURES FROM TRUST FUND.—Amounts  
9       in the SPICE Trust Fund shall only be available for mak-  
10      ing expenditures to carry out this part, including adminis-  
11      trative expenses of the SPICE Board.

12      “(d) APPLICATION OF HI TRUST FUND PROVI-  
13      SIONS.—The provisions of subsections (b) through (e) of  
14      section 1817 shall apply to the SPICE Board, this part,  
15      and the SPICE Trust Fund in the same manner as they  
16      apply to the Board of Trustees (and the Secretary and  
17      the Health Care Financing Administration), part A, and  
18      the Federal Hospital Insurance Trust Fund, respectively,  
19      except that—

20               “(1) the Board of Trustees shall be composed  
21               of the SPICE Board and the Secretary of the Treas-  
22               ury; and

23               “(2) the annual report shall be submitted as  
24               part of the annual report provided under section  
25               1860E(b)(3).”.



1 **SEC. 3. CONFORMING CHANGES TO MEDIGAP.**

2 Section 1882 of the Social Security Act (42 U.S.C.  
3 1395ss) is amended by adding at the end the following:

4 “(v)(1) Notwithstanding subsection (p), the benefit  
5 packages established under such subsection shall be re-  
6 vised (in the manner described in subsection (p)(1)(E))  
7 so that—

8 “(A) there is established a benefit package con-  
9 sisting of only outpatient prescription drug benefits  
10 that are consistent with SPICE prescription drug  
11 coverage (as defined in section 1860B(b)) and that  
12 are offered only through the SPICE Board and in  
13 accordance with part D;

14 “(B) such package shall permit coverage of out-  
15 patient prescription drugs that exceeds the thresh-  
16 olds established under such section;

17 “(C) no package (except the package estab-  
18 lished under subparagraph (A)) includes coverage of  
19 outpatient prescription drugs provided under part D;  
20 and

21 “(D) other benefit packages that do not include  
22 prescription drug coverage may be substituted for  
23 the packages eliminated under subparagraph (C).

24 In this title, a medicare supplemental policy which has the  
25 benefit package described in subparagraph (A) is referred  
26 to as a ‘SPICE medicare supplemental policy’. The revi-

1 sions of benefit packages under this paragraph shall not  
2 effect the renewal of medicare supplemental policies under  
3 this section that are in existence on the effective date of  
4 such revisions, and shall be designed to avoid adverse se-  
5 lection and to be affordable.

6 “(2) Notwithstanding subsection (d), nothing in this  
7 section shall be construed as prohibiting or making  
8 unlawful—

9 “(A) the sale or issuance of a SPICE medicare  
10 supplemental policy to an individual who has a medi-  
11 care supplemental policy that does not provide cov-  
12 erage of outpatient prescription drugs;

13 “(B) the sale or issuance of a medicare supple-  
14 mental policy that does not provide coverage of out-  
15 patient prescription drugs to an individual who has  
16 a SPICE medicare supplemental policy; or

17 “(C) the sale or issuance of such a SPICE  
18 medicare supplemental policy to an individual who is  
19 enrolled in a Medicare+Choice plan that does not  
20 provide coverage of outpatient prescription drugs  
21 (not including coverage required to be provided  
22 under part A or B).

23 The sale or issuance of policies under the circumstances  
24 described in this paragraph shall be treated as not ‘dupli-  
25 cative’ under this section.

1 “(3)(A) No medicare supplemental policy of the in-  
2 surer that is in effect on the effective date of the revision  
3 under paragraph (1) and that has a benefit package classi-  
4 fied as ‘H’, ‘I’, or ‘J’ under the standards established by  
5 subsection (p)(2) shall be deemed to meet the standards  
6 in subsection (c) unless the insurer—

7 “(i) provides written notice, within a 60-day pe-  
8 riod specified by the revisions, to the policyholder or  
9 certificate holder (at the most recent available ad-  
10 dress) of the offer described in clause (ii) and of the  
11 fact that, so long as they retain coverage under such  
12 policy, they are unable to purchase a SPICE medi-  
13 care supplemental policy; and

14 “(ii) offers the individual under the terms de-  
15 scribed in subparagraph (B), during a period of at  
16 least 180 days beginning on the date specified in  
17 subparagraph (C), institution of coverage effective  
18 as of a date specified by the revisions, a non-SPICE  
19 medicare supplemental policy that the Secretary de-  
20 termines is most comparable to the policy in which  
21 the individual is enrolled (but for coverage of pre-  
22 scription drugs).

23 “(B) The terms described under this subparagraph  
24 are terms which do not—

1           “(i) deny or condition the issuance or effective-  
 2           ness of a medicare supplemental policy described in  
 3           subparagraph (A)(ii) that is offered and is available  
 4           for issuance to new enrollees by such issuer;

5           “(ii) discriminate in the pricing of such policy  
 6           because of health status, claims experience, receipt  
 7           of health care, or medical condition; or

8           “(iii) impose an exclusion of benefits based on  
 9           a pre-existing condition under such policy.

10          “(C) The date specified in this subparagraph for a  
 11          policy issued in a State is such date as specified by the  
 12          revisions (taking into account the method used under sub-  
 13          section (n)(4) for establishing a date under that sub-  
 14          section).

15          “(4) In applying this section with respect to SPICE  
 16          medicare supplemental policies, any reference to the ‘Sec-  
 17          retary’ is deemed a reference to the SPICE Board.”.

18       **SEC. 4. PROVISION OF INFORMATION ON SPICE DRUG BEN-**  
 19                               **EFIT PROGRAM UNDER HEALTH INSURANCE**  
 20                               **INFORMATION, COUNSELING, AND ASSIST-**  
 21                               **ANCE GRANTS.**

22          Section 4360(b)(2)(A)(ii) of the Omnibus Budget  
 23          Reconciliation Act of 1990 (42 U.S.C. 1395b-  
 24          4(b)(2)(A)(ii)) is amended by striking “and information”  
 25          and inserting “, information regarding the SPICE drug

1 benefit program under part D of title XVIII of the Social  
2 Security Act, and information”.

3 **SEC. 5. FUNDING THROUGH TAXES ON TOBACCO PROD-**  
4 **UCTS.**

5 (a) CIGARETTES.—Subsection (b) of section 5701 of  
6 the Internal Revenue Code of 1986 is amended—

7 (1) by striking “\$12 per thousand (\$10 per  
8 thousand on cigarettes removed during 1991 or  
9 1992);” in paragraph (1) and inserting “the applica-  
10 ble rate per thousand determined in accordance with  
11 the following table:

<b>“In the case of cigarettes removed during:</b>	<b>The applicable rate is:</b>
2000 and 2001 .....	\$44.50
2002 and thereafter .....	\$47.00.”;

12 and

13 (2) by striking paragraph (2) and inserting the  
14 following:

15 “(2) LARGE CIGARETTES.—

16 “(A) IN GENERAL.—Except as provided in  
17 subparagraph (B), on cigarettes, weighing more  
18 than 3 pounds per thousand, the applicable rate  
19 per thousand determined in accordance with the  
20 following table:

<b>“In the case of cigarettes removed during:</b>	<b>The applicable rate is:</b>
2000 and 2001 .....	\$93.45
2002 and thereafter .....	\$98.70.

1           “(B) EXCEPTION.—On cigarettes more  
 2           than 6½ inches in length, at the rate pre-  
 3           scribed for cigarettes weighing not more than 3  
 4           pounds per thousand, counting each 2¾ inches,  
 5           or fraction thereof, of the length of each as one  
 6           cigarette.”

7           (b) CIGARS.—Subsection (a) of section 5701 of such  
 8 Code is amended—

9           (1) by striking “\$1.125 cents per thousand  
 10          (93.75 cents per thousand on cigars removed during  
 11          1991 or 1992),” in paragraph (1) and inserting “the  
 12          applicable rate per thousand determined in accord-  
 13          ance with the following table:

<b>“In the case of cigarettes removed during:</b>	<b>The applicable rate is:</b>
2000 and 2001 .....	\$4.173 cents
2002 and thereafter .....	\$4.406 cents.”;

14          and

15          (2) by striking paragraph (2) and inserting the  
 16          following:

17          “(2) LARGE CIGARS.—On cigars, weighing more  
 18          than 3 pounds per thousand, the applicable percent-  
 19          age of the price for which sold but not more than the  
 20          applicable rate per thousand determined in accord-  
 21          ance with the following table:



<b>"In the case of cigars re- moved dur- ing:</b>	<b>The applicable percentage is:</b>	<b>The applicable rate is:</b>
2000 and 2001	59.458%	\$139.90
2002 and thereafter	68.201%	\$160.47."

1       (c) CIGARETTE PAPERS.—Subsection (c) of section  
2 5701 of such Code is amended to read as follows:

3       “(c) CIGARETTE PAPERS.—

4               “(1) IN GENERAL.—Except as provided in para-  
5 graph (2), on each book or set of cigarette papers  
6 containing more than 25 papers, manufactured in or  
7 imported into the United States, there shall be im-  
8 posed a tax of the applicable rate for each 50 papers  
9 or fractional part thereof as determined in accord-  
10 ance with the following table:

<b>"In the case of cigarettes papers removed during:</b>	<b>The applicable rate is: rate is:</b>
2000 and 2001 .....	2.80 cents
2002 and thereafter .....	2.90 cents.

11               “(2) EXCEPTION.—If cigarette papers measure  
12 more than 6½ inches in length, such cigarette pa-  
13 pers shall be taxable at the rate prescribed, counting  
14 each 2¾ inches, or fraction thereof, of the length of  
15 each as one cigarette paper.”

16       (d) CIGARETTE TUBES.—Subsection (d) of section  
17 5701 of such Code is amended to read as follows:

18       “(d) CIGARETTE TUBES.—

1           “(1) IN GENERAL.—Except as provided in para-  
 2           graph (2), on cigarette tubes, manufactured in or  
 3           imported into the United States, there shall be im-  
 4           posed a tax of the applicable rate for each 50 tubes  
 5           or fractional part thereof as determined in accord-  
 6           ance with the following table:

<b>“In the case of cigarettes tubes removed during:</b>	<b>The applicable rate is: rate is:</b>
2000 and 2001 .....	5.60 cents
2002 and thereafter .....	5.90 cents.

7           “(2) EXCEPTION.—If cigarette tubes measure  
 8           more than 6½ inches in length, such cigarette tubes  
 9           shall be taxable at the rate prescribed, counting each  
 10          2¾ inches, or fraction thereof, of the length of each  
 11          as one cigarette tube.”

12          (e) SMOKELESS TOBACCO.—Paragraphs (1) and (2)  
 13 of subsection (e) of section 5701 are amended to read as  
 14 follows:

15          “(1) SNUFF.—On snuff, the applicable rate per  
 16          pound determined in accordance with the following  
 17          table (and a proportionate tax at the like rate on all  
 18          fractional parts of a pound):

<b>“In the case of snuff removed during:</b>	<b>The applicable rate is:</b>
2000 and 2001 .....	\$1.335 cents
2002 and thereafter .....	\$1.410 cents.

19          “(2) CHEWING TOBACCO.—On chewing tobacco,  
 20          the applicable rate per pound determined in accord-  
 21          ance with the following table (and a proportionate

1 tax at the like rate on all fractional parts of a  
2 pound):

**“In the case of chewing tobacco**

**removed during:**

**The applicable rate is:**

2000 and 2001 .....	44.5 cents
2002 and thereafter .....	47.0 cents.”

3 (f) PIPE TOBACCO.—Subsection (f) of section 5701  
4 of such Code is amended to read as follows:

5 “(f) PIPE TOBACCO.—On pipe tobacco, manufac-  
6 tured in or imported into the United States, there shall  
7 be imposed a tax of the applicable rate per pound deter-  
8 mined in accordance with the following table (and a pro-  
9 portionate tax at the like rate on all fractional parts of  
10 a pound):

**“In the case of pipe tobacco**

**removed during:**

**The applicable rate is:**

2000 and 2001 .....	\$2.504 cents
2002 and thereafter .....	\$2.644 cents.”

11 (g) IMPOSITION OF EXCISE TAX ON MANUFACTURE  
12 OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

13 (1) IN GENERAL.—Section 5701 of such Code  
14 (relating to rate of tax) is amended by redesignating  
15 subsection (g) as subsection (h) and by inserting  
16 after subsection (f) the following:

17 “(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own  
18 tobacco, manufactured in or imported into the United  
19 States, there shall be imposed a tax of the applicable rate  
20 per pound determined in accordance with the following

1 table (and a proportionate tax at the like rate on all frac-  
 2 tional parts of a pound):

**“In the case of roll-your-own  
 tobacco removed during:**

**The applicable rate is:**

2000 and 2001 .....	\$2.504 cents
2002 and thereafter .....	\$2.644 cents.”

3 (2) ROLL-YOUR-OWN TOBACCO.—Section 5702  
 4 of such Code (relating to definitions) is amended by  
 5 adding at the end the following:

6 “(p) ROLL-YOUR-OWN TOBACCO.—The term ‘roll-  
 7 your-own tobacco’ means any tobacco which, because of  
 8 its appearance, type, packaging, or labeling, is suitable for  
 9 use and likely to be offered to, or purchased by, consumers  
 10 as tobacco for making cigarettes.”

11 (3) TECHNICAL AMENDMENTS.—

12 (A) Subsection (c) of section 5702 of such  
 13 Code is amended by striking “and pipe to-  
 14 bacco” and inserting “pipe tobacco, and roll-  
 15 your-own tobacco”.

16 (B) Subsection (d) of section 5702 of such  
 17 Code is amended—

18 (i) in the material preceding para-  
 19 graph (1), by striking “or pipe tobacco”  
 20 and inserting “pipe tobacco, or roll-your-  
 21 own tobacco”, and

1 (ii) by striking paragraph (1) and in-  
 2 serting the following:

3 “(1) a person who produces cigars, cigarettes,  
 4 smokeless tobacco, pipe tobacco, or roll-your-own to-  
 5 bacco solely for the person’s own personal consump-  
 6 tion or use, and”.

7 (C) The chapter heading for chapter 52 of  
 8 such Code is amended to read as follows:

9 **“CHAPTER 52—TOBACCO PRODUCTS AND**  
 10 **CIGARETTE PAPERS AND TUBES”.**

11 (D) The table of chapters for subtitle E of  
 12 such Code is amended by striking the item re-  
 13 lating to chapter 52 and inserting the following:

“CHAPTER 52. Tobacco products and cigarette papers and tubes.”

14 (h) FLOOR STOCKS TAXES AND APPLICATION OF  
 15 TAXES TO POSSESSIONS.—Section 5701 of such Code, as  
 16 amended by subsection (g), is amended by redesignating  
 17 subsection (h) as subsection (j) and by inserting after sub-  
 18 section (g) the following:

19 “(h) FLOOR STOCKS TAXES.—

20 “(1) IMPOSITION OF TAX.—On tobacco prod-  
 21 ucts manufactured in or imported into the United  
 22 States or any possession of the United States which  
 23 are removed before any tax increase date, and held  
 24 on such date for sale by any person, there is hereby  
 25 imposed a tax in an amount equal to the excess of—

1           “(A) the tax which would be imposed  
2           under any preceding subsection of this section  
3           on the article if the article had been removed on  
4           such date, over

5           “(B) the prior tax (if any) imposed under  
6           such subsection on such article.

7           “(2) CREDIT AGAINST TAX.—Each person shall  
8           be allowed as a credit against the taxes imposed by  
9           paragraph (1) an amount equal to \$500. Such credit  
10          shall not exceed the amount of taxes imposed by  
11          paragraph (1) on any tax increase date, for which  
12          such person is liable.

13          “(3) LIABILITY FOR TAX AND METHOD OF PAY-  
14          MENT.—

15               “(A) LIABILITY FOR TAX.—A person hold-  
16               ing cigarettes on any tax increase date, to  
17               which any tax imposed by paragraph (1) applies  
18               shall be liable for such tax.

19               “(B) METHOD OF PAYMENT.—The tax im-  
20               posed by paragraph (1) shall be paid in such  
21               manner as the Secretary shall prescribe by reg-  
22               ulations.

23               “(C) TIME FOR PAYMENT.—The tax im-  
24               posed by paragraph (1) shall be paid on or be-



1           fore the date which is 180 days after any tax  
2           increase date.

3           “(4) ARTICLES IN FOREIGN TRADE ZONES.—  
4       Notwithstanding the Act of June 18, 1934 (48 Stat.  
5       998, 19 U.S.C. 81a) and any other provision of law,  
6       any article which is located in a foreign trade zone  
7       on any tax increase date, shall be subject to the tax  
8       imposed by paragraph (1) if—

9           “(A) internal revenue taxes have been de-  
10          termined, or customs duties liquidated, with re-  
11          spect to such article before such date pursuant  
12          to a request made under the 1st proviso of sec-  
13          tion 3(a) of such Act, or

14          “(B) such article is held on such date  
15          under the supervision of a customs officer pur-  
16          suant to the 2d proviso of such section 3(a).

17          “(5) TAX INCREASE DATE.—The term ‘tax in-  
18          crease date’ means January 1, 2000, and January  
19          1, 2002.

20          “(6) CONTROLLED GROUPS.—Rules similar to  
21          the rules of section 5061(e)(3) shall apply for pur-  
22          poses of this subsection.

23          “(7) OTHER LAWS APPLICABLE.—All provisions  
24          of law, including penalties, applicable with respect to  
25          the taxes imposed by the preceding subsections of

1       this section shall, insofar as applicable and not in-  
2       consistent with the provisions of this subsection,  
3       apply to the floor stocks taxes imposed by paragraph  
4       (1), to the same extent as if such taxes were im-  
5       posed by such subsections. The Secretary may treat  
6       any person who bore the ultimate burden of the tax  
7       imposed by paragraph (1) as the person to whom a  
8       credit or refund under such provisions may be al-  
9       lowed or made.

10       “(i) APPLICATION OF TAXES TO U.S. POSSES-  
11       SIONS.—Notwithstanding subsections (b) and (c) of sec-  
12       tion 7653 and any other provision of law—

13               “(1) IN GENERAL.—On tobacco products manu-  
14       factured in or imported into any possession of the  
15       United States, there is hereby imposed a tax at the  
16       rate equal to the excess of—

17               “(A) the rate of tax applicable under this  
18       section to like articles manufactured in the  
19       United States, over

20               “(B) the rate referred to in subparagraph  
21       (A) which would have been in effect if the  
22       amendments made by the Seniors Prescription  
23       Insurance Coverage Equity (SPICE) Act of  
24       1999 had not been enacted.

1           “(2) SHIPMENTS TO U.S. POSSESSIONS FROM  
2     THE UNITED STATES.—Only the rates of tax which  
3     would have been in effect if the amendments made  
4     by the Seniors Prescription Insurance Coverage Equity (SPICE) Act of 1999 had not been enacted  
5     shall be taken into account in determining the  
6     amount of any exemption from, or credit or draw-  
7     back of, any tax imposed by this section on any arti-  
8     cle shipped to any possession of the United States  
9     from the United States.

11           “(3) SHIPMENTS FROM U.S. POSSESSIONS TO  
12     THE UNITED STATES.—The rates of tax taken into  
13     account under section 7652(a) with respect to to-  
14     bacco products coming into the United States from  
15     any possession of the United States shall be the  
16     rates of tax which would have been in effect if the  
17     amendments made by the Seniors Prescription In-  
18     surance Coverage Equity (SPICE) Act of 1999 had  
19     not been enacted.

20           “(4) DISPOSITION OF REVENUES.—The provi-  
21     sions of section 7652(a)(3) shall not apply to any  
22     tax imposed by reason of this subsection.”

23           “(i) MODIFICATIONS OF CERTAIN TOBACCO TAX PRO-  
24     VISIONS.—

1           (1) EXEMPTION FOR EXPORTED TOBACCO  
2           PRODUCTS AND CIGARETTE PAPERS AND TUBES TO  
3           APPLY ONLY TO ARTICLES MARKED FOR EXPORT.—

4           (A) Subsection (b) of section 5704 of such  
5           Code is amended by adding at the end the fol-  
6           lowing: “Tobacco products and cigarette papers  
7           and tubes may not be transferred or removed  
8           under this subsection unless such products or  
9           papers and tubes bear such marks, labels, or  
10          notices as the Secretary shall by regulations  
11          prescribe.”

12          (B) Section 5761 of such Code is amended  
13          by redesignating subsections (c) and (d) as sub-  
14          sections (d) and (e), respectively, and by insert-  
15          ing after subsection (b) the following:

16          “(c) SALE OF TOBACCO PRODUCTS AND CIGARETTE  
17          PAPERS AND TUBES FOR EXPORT.—Except as provided  
18          in subsections (b) and (d) of section 5704—

19               “(1) every person who sells, relands, or receives  
20          within the jurisdiction of the United States any to-  
21          bacco products or cigarette papers or tubes which  
22          have been labeled or shipped for exportation under  
23          this chapter,

1           “(2) every person who sells or receives such re-  
2       landed tobacco products or cigarette papers or tubes,  
3       and

4           “(3) every person who aids or abets in such  
5       selling, relanding, or receiving,  
6       shall, in addition to the tax and any other penalty provided  
7       in this title, be liable for a penalty equal to the greater  
8       of \$1,000 or 5 times the amount of the tax imposed by  
9       this chapter. All tobacco products and cigarette papers  
10      and tubes rela     d within the jurisdiction of the United  
11     States, and all vessels, vehicles, and aircraft used in such  
12     relanding or in removing such products, papers, and tubes  
13     from the place where relanded, shall be forfeited to the  
14     United States.”

15           (C) Subsection (a) of section 5761 of such  
16       Code is amended by striking “subsection (b)”  
17       and inserting “subsection (b) or (c)”.

18           (D) Subsection (d) of section 5761 of such  
19       Code, as redesignated by subparagraph (B), is  
20       amended by striking “The penalty imposed by  
21       subsection (b)” and inserting “The penalties  
22       imposed by subsections (b) and (c)”.

23           (E)(i) Subpart F of chapter 52 of such  
24       Code is amended by adding at the end the fol-  
25       lowing:

1   **“SEC. 5754. RESTRICTION ON IMPORTATION OF PRE-**  
 2                   **VIOUSLY EXPORTED TOBACCO PRODUCTS.**

3       “(a) IN GENERAL.—Tobacco products and cigarette  
 4 papers and tubes previously exported from the United  
 5 States may be imported or brought into the United States  
 6 only as provided in section 5704(d). For purposes of this  
 7 section, section 5704(d), section 5761, and such other pro-  
 8 visions as the Secretary may specify by regulations, ref-  
 9 erences to exportation shall be treated as including a ref-  
 10 erence to shipment to the Commonwealth of Puerto Rico.

11       “(b) CROSS REFERENCE.—

**“For penalty for the sale of tobacco products and  
 cigarette papers and tubes in the United States  
 which are labeled for export, see section 5761(c).”**

12               (ii) The table of sections for subpart F of  
 13 chapter 52 of such Code is amended by adding  
 14 at the end the following:

“Sec. 5754. Restriction on importation of previously exported to-  
 bacco products.”

15       (2) IMPORTERS REQUIRED TO BE QUALIFIED.—

16               (A) Sections 5712, 5713(a), 5721, 5722,  
 17 5762(a)(1), and 5763 (b) and (c) of such Code  
 18 are each amended by inserting “or importer”  
 19 after “manufacturer”.

20               (B) The heading of subsection (b) of sec-  
 21 tion 5763 of such Code is amended by inserting  
 22 “QUALIFIED IMPORTERS,” after “MANUFAC-  
 23 TURERS,”.



(C) The heading for subchapter B of chapter 52 of such Code is amended by inserting **“and Importers”** after **“Manufacturers”**.

(D) The item relating to subchapter B in the table of subchapters for chapter 52 of such Code is amended by inserting “and importers” after “manufacturers”.

(3) BOOKS OF 25 OR FEWER CIGARETTE PAPERS SUBJECT TO TAX.—Subsection (c) of section 5701 of such Code is amended by striking “On each book or set of cigarette papers containing more than 25 papers,” and inserting “On cigarette papers,”.

(4) STORAGE OF TOBACCO PRODUCTS.—Subsection (k) of section 5702 of such Code is amended by inserting “under section 5704” after “internal revenue bond”.

(5) AUTHORITY TO PRESCRIBE MINIMUM MANUFACTURING ACTIVITY REQUIREMENTS.—Section 5712 of such Code is amended by striking “or” at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

“(2) the activity proposed to be carried out at such premises does not meet such minimum capacity



1 or activity requirements as the Secretary may pre-  
2 scribe, or”.

3 (j) REPEAL OF DUPLICATIVE PROVISIONS.—Section  
4 9302 of the Balanced Budget Act of 1997 (other than sub-  
5 section (i)(2)) and the amendments made by such section  
6 are repealed, and the Internal Revenue Code of 1986 shall  
7 be administered as if such section and such amendments  
8 had not been enacted.

9 (k) EFFECTIVE DATE.—The amendments and repeal  
10 made by this section shall apply to articles removed (as  
11 defined in section 5702(k) of the Internal Revenue Code  
12 of 1986, as amended by this section) after December 31,  
13 1999.

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